

### **REMARKS**

This amendment is in response to the Office Action mailed March 6, 2009. Claims 1 and 12 have been amended. Claims 1-27 are currently pending. No new matter has been added.

#### **§102 and §103 Rejections**

Claims 1-6 and 8-11 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,846,259 to Berthiaume (hereinafter "Berthiaume"). Claims 7 and 12-27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Berthiaume in view of U.S. Patent No. 5,346,489 to Levy et al. (hereinafter "Levy"). The Applicants traverse these rejections.

Claim 1 recites a telescoping catheter comprising a third sheath coupled to the distal end and located within the second sheath, the third sheath extending proximally along the cable through at least a portion of each of the first sheath and the second sheath when the catheter is fully extended and closely surrounding the cable and closely surrounding the cable from the distal end to a point within the first sheath beyond a proximal end of the second sheath.

Berthiaume discloses a catheter having a first telescoping tube 60, a second telescoping tube 70, a guidewire shaft 30 and an extension shaft 40. The guidewire shaft 30 is disposed within the extension shaft 40 (Berthiaume, col. 4, lines 41-48). The Office Action asserts that the guidewire shaft 30 of Berthiaume corresponds to the third sheath of claim 1 (Office Action, p. 3). However, claim 1 recites that the third sheath extends proximally along the cable through at least a portion of each of the first and second sheaths when the catheter is fully extended, and closely surrounding the cable from the distal end to a point within the first sheath beyond a proximal end of the second sheath. By extending the third sheath through at least a portion of each of the first and second sheaths and beyond a proximal end of the second sheath additional support and protection is provided for the cable when the catheter is extended. In contrast, the guidewire shaft 30 of Berthiaume does not extend beyond a proximal end of the second sheath, but is rather "co-extensive with the proximal end 44 of the extension shaft 40" (Berthiaume, col. 4, lines 50). Thus, the guidewire 30 of Berthiaume is incapable of providing the proper support and protection of the third

sheath of claim 1. Levy does not cure this deficiency of Berthiaume because it too does not teach or suggest this third sheath of claim 1 extending beyond a proximal end of the second sheath.

For at least these reasons, claim 1, as well as claims 2-11 which depend therefrom, are patentable over the cited references. The Applicants respectfully request withdrawal of the rejections of these claims.

Claims 12 and 26 recite a telescoping catheter adapted for use within a human body comprising a flexible inner sheath coupled to the distal end and defining a first lumen for housing a cable, a flexible outer sheath coupled to the distal end and defining a second lumen, the outer sheath adapted to substantially surround the inner sheath, and a flexible telescoping sheath adapted to telescope within the second lumen. Thus, the flexible telescoping sheath is disposed within the second lumen of the flexible outer sheath.

Berthiaume does not disclose a flexible telescoping sheath adapted to telescope within the second lumen of the flexible outer sheath. Instead, the sheath coupled to the distal end of the catheter in Berthiaume is disposed within the first telescoping tube 60. Thus, Berthiaume does not disclose a flexible outer sheath coupled to the distal end and defining a second lumen which receives a flexible telescoping sheath. Levy does not cure this deficiency of Berthiaume because it too does not teach or suggest this flexible telescoping sheath with a sheath extending in a male relationship with one distal sheath and a female relationship with another distal sheath.

For at least these reasons, claims 12 and 26, as well as claims 13-25 and 27, which depend therefrom, are patentable over the cited references. The Applicants respectfully request withdrawal of the rejections of these claims.

The dependant claims include additional patentable elements. For example, claims 9 and 23 recite a spacer that couples the third sheath to the distal end. The Office Action asserts that the balloon 49 of Berthiaume corresponds to the spacer of claims 9 and 23 (Office Action, p. 3). However, the balloon 49 does not couple a sheath to the distal end, but instead is "inflated to expand

radially the stenosed lumen of blood vessels” (Berthiaume, col. 1, lines 15-28). Though balloon 49 also stops the first telescoping tube 60 from retracting past a certain point, the balloon 49 does not couple the first telescoping tube 60 to any other structure. Levy does not cure this deficiency of Berthiaume because it too does not teach or suggest a spacer.

For at least these additional reasons, claims 9 and 23, as well as claims 10, 11, 24 and 25, which depend therefrom are patentable over the cited references. The Applicants respectfully request withdrawal of the rejections of these claims.

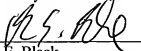
Claims 10 and 24 recite a spacer which includes a plurality of radially spaced lumens. Even if the balloon 49 of Berthiaume is taken as the spacer of claims 9 and 23, the inflation lumen 49 and the guidewire lumen 36 of the balloon 49 cannot be said to be the radially spaced lumens of the spacer. Instead, the inflation lumen and the guidewire lumen 36 appear to be inline and not radially spaced. As previously discussed, Levy does not cure this deficiency of Berthiaume because it too does not teach or suggest a spacer.

For at least these additional reasons, claims 10 and 24 are patentable over the cited references. The Applicants respectfully request withdrawal of the rejections of these claims.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. If the Examiner has any questions or concerns, the Applicants encourage the Examiner to contact the Applicants' representative, Bruce Black, by telephone to discuss the matter.

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Respectfully submitted,

By 

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